

**BEFORE THE STATE OF CALIFORNIA
STATE ENERGY RESOURCES AND CONSERVATION DIVISION**

In the Matter of:)
Humboldt Bay Replacement Project) Docket 06-AFC-07
) Rob Simpson comments on the PMPD and FDOC/PSD
) permit

The CEC licensing process has again been undermined by defective public notice from the Air District. The Air district is required to provide the only Air Quality Public Notice in a power plant licensing. This notice is designed to alert the public of the potential effects on air quality and give them the opportunity to participate in the process. The Air Districts notice did not do this.

The Air Quality Notice is necessarily prior to the CEC evidentiary Hearings because the CEC determinations are meant to rely on the The Air Districts Determinations. It is also the basis for the public to participate.

The people are led to believe that they are repowering an aging plant with a modern cleaner facility. When they understand that the existing plant emits 24.9 tons of particulate matter per year and the proposed plant can emit 119.8 tons of particulate matter per year, with the maximum impact at the neighboring elementary school, they will participate.

It is beyond the authority of the CEC to license power plants absent Public notice of the effects on air Quality.

(Please see the following letter sent to the Air District.)

September 17, 2008

Rob Simpson
27126 Grandview Avenue
Hayward California 94542
510-909-1800

Dear Sir,

Thank you for your prompt response to my request for a copy of the public notice for the Humboldt Bay Repowering Project. The notice provided does not contain the information required for the public to participate. This may be why you apparently received no comments from the public. District rule 5.3.1 requires the notice include “the activities and emissions and change in emissions involved in the permit action”

This is the key information that the public would need to determine interest in the project. Had the notice included tables 16-18 from the FDOC it would likely have caused public participation. Failure to include this information undermined the public's right to participate and compromised the integrity of the FDOC.

The Notice also required:

5.3.6 The date, time and place of the public hearing on the proposed decision or a statement that members of the public may request that the AQMD hold such a hearing to receive oral comments

I expect that this was an honest mistake and hope that you take appropriate action to cure the defect. You are not the first to have this problem. We had the exact same issues in the Russell City Energy Center case. The District declined my request to cure the defect. The Environmental Appeals Board of the United States Environmental Protection Agency subsequently remanded the PSD permit to BAAQMD.

http://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/Filings%20By%20Appeal%20Number/EA6F1B6AC88CC6F085257495006586FB?OpenDocumenthttp://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/Filings%20By%20Appeal%20Number/EA6F1B6AC88CC6F085257495006586FB?OpenDocument This has generated as great deal of media and public interest in that project. It has also made BAAQMD the target of Federal litigation from numerous environmental groups.

The CEC is relying on the FDOC for its determination. They are seeking comments today:

“Members of the public and governmental agency representatives are encouraged to submit their written comments no later than September 17, 2008,”

http://www.energy.ca.gov/sitingcases/humboldt/notices/2008-08-18_notice_availability_pmpd.html

Please inform the CEC of:

9.2.1 The need to correct a material mistake or inaccurate statement;

9.2.2 The need to revise or revoke a permit to operate to assure compliance with applicable federal requirements

and re-notice the PDOC prior to issuance of a FDOC.

Thank You,

Rob Simpson

